

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

v.

JUANA DIAZ,

Defendant.

13-CR-81-A
DECISION AND ORDER

On June 6, 2016, the Court sentenced Defendant Juana Diaz to 36 months' imprisonment and two years of supervised release following her plea of guilty to one count of conspiracy to possess with intent to distribute, and to distribute, one kilogram or more of heroin, in violation of 21 U.S.C. § 846.

The Defendant has since filed a pro se motion for reconsideration of the Court's sentence. The Defendant states that she "recognize[s] [the Court's] decision as fair" and that she is "completely repentant for [her] actions." Docket 97. The Defendant asks, however, that the Court reconsider its sentence, given that the Defendant is the sole caretaker for her fifteen year-old son. The Defendant states that she "worr[ies] about what will be of him while I am serving my time." *Id.*

The Court lacks authority to grant the Defendant's request. With few exceptions, a federal district court "may not modify a term of imprisonment once it has been imposed." 18 U.S.C. § 3582(c). None of § 3582(c)'s exceptions apply in this case: the Director of the Bureau of Prisons has not moved to reduce the Defendant's sentence due to "extraordinary and compelling reasons" (§ 3582(c)(1)(A)(i)); the Government has not filed a post-sentence Rule 35 motion based on the Defendant's substantial assistance (§ 3582(c)(1)(B)); and the U.S. Sentencing Commission has not amended

any of the Sentencing Guidelines that were used to calculate the Defendant's sentence (§ 3582(c)(2)).

Thus, the Court lacks authority to reduce the Defendant's already-imposed sentence. The Defendant's motion is therefore denied.

SO ORDERED.

Dated: July 12, 2016
Buffalo, New York

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE